

CENTER FOR BIOLOGICAL DIVERSITY

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WISHTOYO FOUNDATION/VENTURA COASTKEEPER

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Attorneys for Petitioners

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES

CENTER FOR BIOLOGICAL DIVERSITY,)
FRIENDS OF THE SANTA CLARA RIVER,)
SANTA CLARITA ORGANIZATION FOR)
PLANNING THE ENVIRONMENT,)
WISHTOYO FOUNDATION/VENTURA)
COASTKEEPER, and CALIFORNIA)
NATIVE PLANT SOCIETY)

Petitioners,

vs.

CALIFORNIA DEPARTMENT OF FISH)
AND GAME and DOES 1-20,)

Respondents,

NEWHALL LAND AND FARMING)
COMPANY and DOES 21-50,)

Real Parties in Interest.

RECEIVED

OCT 01 2012

DEPT. 86

FILED

LOS ANGELES SUPERIOR COURT

OCT 15 2012

JOHN A. CLARKE, CLERK

BY N. DIGIAMBATTISTA, DEPUTY

BY FAX

Case No. BS 131347

~~PROPOSED~~ JUDGMENT

Department: 86

[Proposed] Judgment

1 This matter came on regularly for hearing on September 20, 2012 in Department 86 of
2 this Court, located at 111 North Hill Street, Los Angeles, California, 90012. John Buse of the
3 Center for Biological Diversity and Jason Weiner of Wishtoyo Foundation/Ventura
4 Coastkeeper appeared on behalf of Petitioners CENTER FOR BIOLOGICAL DIVERSITY,
5 FRIENDS OF THE SANTA CLARA RIVER, SANTA CLARITA ORGANIZATION FOR
6 PLANNING THE ENVIRONMENT, WISHTOYO FOUNDATION/VENTURA
7 COASTKEEPER, and CALIFORNIA NATIVE PLANT SOCIETY (the "Petitioners"). John
8 Mattox of the California Department of Fish and Game and Tina Thomas of Thomas Law
9 Group appeared on behalf of Respondent CALIFORNIA DEPARTMENT OF FISH AND
10 GAME (the "Department").¹ Mark Dillon of Gatzke, Dillon and Balance appeared on behalf
11 of Real Party in Interest NEWHALL LAND AND FARMING COMPANY ("Newhall").

12 The Court having reviewed the record of the proceedings in this matter, the briefs
13 submitted by counsel, and the arguments of counsel; the Court having issued a Statement of
14 Intended Decision dated September 20, 2012; the Court having taken judicial notice of those
15 items described in the Statement of Intended Decision; the Court having directed that
16 Petitioners shall submit a proposed Statement of Decision; and the Court having directed that
17 judgment and a peremptory writ of mandate issue in this proceeding,

18 IT IS ORDERED that:

19 1. Judgment be entered in favor of Petitioners in this proceeding on Petitioners'
20 Petition for Writ of Mandate on the claims and for the reasons described in the Statement of
21 Decision.

22 2. A peremptory writ of mandate directed to the Department issue under seal of
23 this Court, ordering the Department to:

24 a. Set aside its approvals of the Newhall Ranch Resource Management
25 and Development Plan, Spineflower Conservation Plan, Multi-Species Incidental Take

26 ¹ Pursuant to AB 2402, signed by the Governor on September 25, 2012, the Department of Fish
27 and Game has been renamed as the Department of Fish and Wildlife.

1 Permit No. 2081-2008-013-05, Spineflower Incidental Take Permit No. 2081-2008-
2 012-05, and Master Streambed Alteration Agreement No. 1600-2004-0016-R5 (the
3 "Project").

4 b. Set aside its certification of the Final Environmental Impact Report
5 prepared in connection with the Newhall Ranch Resource Management and
6 Development Plan and Spineflower Conservation Plan, State Clearinghouse No.
7 2000011025 (the "EIR").

8 c. Set aside its Findings, the Statement of Overriding Considerations, and
9 the Mitigation and Monitoring Program adopted in connection with the Newhall
10 Ranch Resource Management and Development Plan, Spineflower Conservation Plan,
11 Multi-Species Incidental Take Permit No. 2081-2008-013-05, Spineflower Incidental
12 Take Permit No. 2081-2008-012-05, Master Streambed Alteration Agreement No.
13 1600-2004-0016-R5, and the EIR.

14 3. Pursuant to Public Resources Code § 21168.9(a)(2), because specific Project
15 activity or activities would prejudice the consideration or implementation of particular
16 mitigation measures or alternatives to the Project, the Department, Newhall, and their
17 successors are enjoined from proceeding with any and all Project activities that could result in
18 an adverse change or alteration to the physical environment, unless and until such time as the
19 Department has certified an environmental impact report that complies with the California
20 Environmental Quality Act by correcting the deficiencies identified in the Court's Statement
21 of Decision and in this Judgment. "Project activities" include all activities authorized under
22 the Newhall Ranch Resource Management and Development Plan, Spineflower Conservation
23 Plan, Multi-Species Incidental Take Permit No. 2081-2008-013-05, Spineflower Incidental
24 Take Permit No. 2081-2008-012-05, and Master Streambed Alteration Agreement No. 1600-
25 2004-0016-R5.

26 4. The Court shall retain jurisdiction over the proceedings pursuant to Public
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1 Resources Code section 21168.9(b). Nevertheless, the Court intends this to be a final,
2 appealable judgment.

3 5. Pursuant to Public Resources Code section 21168.9(c), the Court does not
4 direct the Department to exercise its discretion in any particular way.

5 6. Petitioners are prevailing parties entitled to apply for attorney fees through
6 appropriate noticed motions after entry of this Judgment. This Court retains jurisdiction to
7 hear such motions and determine entitlement to, and amount of, such fees, if any, pursuant to
8 them. If such a motion is granted, this judgment will be amended to award attorneys' fees
9 pursuant to Code of Civil Procedure Section 1021.5.

10 7. Petitioners are prevailing parties entitled to seek costs pursuant to Code of
11 Civil Procedure sections 1032 and 1033.5.

12 8. The Department shall file a return to the peremptory writ no later than 60 days
13 after the date of the issuance of the peremptory writ which shall state that it has complied with
14 said writ or that an appeal from the judgment has or will be filed. Any objections to the return
15 shall be filed no later than 30 days after service of the return.

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19 DATED: OCTOBER 15, 2012

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22 _____
23 ANN I. JONES, JUDGE OF THE SUPERIOR COURT
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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Adam Keats, SBN 191157 CENTER FOR BIOLOGICAL DIVERSITY 351 California St., Suite 600 San Francisco, CA 94104		FOR COURT USE ONLY
TELEPHONE NO.: 415-436-9682 x304 FAX NO. (Optional): 415-436-9683 E-MAIL ADDRESS (Optional): akeats@biologicaldiversity.org ATTORNEY FOR (Name): Petitioners		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 N. Hill St. MAILING ADDRESS: 111 N. Hill St. CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Stanley Mosk Courthouse		
PETITIONER/PLAINTIFF: Center for Biological Diversity et al.		CASE NUMBER: BS 131347
RESPONDENT/DEFENDANT: California Department of Fish and Game et al.		
PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL		

(Do not use this Proof of Service to show service of a Summons and Complaint.)

1. I am over 18 years of age and not a party to this action. I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:
CENTER FOR BIOLOGICAL DIVERSITY, 351 California St., San Francisco, CA 94104
3. On (date): October 1, 2012 I mailed from (city and state): Phoenix, AZ
the following documents (specify):
PROPOSED JUDGMENT; PROPOSED PEREMPTORY WRIT OF MANDATE;
PROPOSED STATEMENT OF DECISION
- ☐ The documents are listed in the *Attachment to Proof of Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D)).
4. I served the documents by enclosing them in an envelope and (check one):
- a. ☒ depositing the sealed envelope with the United States Postal Service with the postage fully prepaid. and electronic mail
- b. ☐ placing the envelope for collection and mailing following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
5. The envelope was addressed and mailed as follows:
- a. Name of person served:
- b. Address of person served:

☒ The name and address of each person to whom I mailed the documents is listed in the Attachment to Proof of Service by First-Class Mail—Civil (Persons Served) (POS-030(P)).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: October 1, 2012

Adam Keats

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

► John Keats

(SIGNATURE OF PERSON COMPLETING THIS FORM)

Form Approved for Optional Use
Judicial Council of California
POS-030 (New January 1, 2005)

PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL
(Proof of Service)

Code of Civil Procedure, §§ 1013, 1013a
www.courtinfo.ca.gov

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SHORT TITLE: Center for Biological Diversity et al. v. Cal. Dept of Fish and Game, et al.

CASE NUMBER
BS131347

ATTACHMENT TO PROOF OF SERVICE BY FIRST-CLASS MAIL—CIVIL (PERSONS SERVED)

(This Attachment is for use with form POS-030)

NAME AND ADDRESS OF EACH PERSON SERVED BY MAIL:

<u>Name of Person Served</u>	<u>Address (number, street, city, and zip code)</u>
Thomas Gibson, General Counsel John H. Mattox, Senior Staff Counsel	Office of the General Counsel, Cal. Dept of Fish and Game 1416 Ninth St., 12th Floor, Sacramento, CA 95814
Mark J. Dillon, Danielle K. Morone, Aarti S. Kewalramani	Gatzke Dillon & Balance LLP 1525 Faraday Ave., Suite 150, Carlsbad CA 92008
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